IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.220 of 1993

Decided on : December 6, 2007

State of H.P. **…Appellant.**

Versus

Neena Devi **…Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Som Dutt Vasudeva, Additional Advocate General.

For the Respondent : None.

Surjit Singh, Judge(Oral)

The present appeal is filed by the State against the judgment of the Sessions Court whereby the respondent, who was charged with and tried for an offence, punishable under Section 307 IPC, has been acquitted.

2. Accusation leveled against the respondent was that on 23rd July, 1991, around 8.30 p.m., when her daughter-in-law PW-3 Kaushalya Devi was sitting in her room, respondent threw kerosene on her and set her on fire. PW-3 Kaushalya Devi was taken to the hospital immediately and was subjected to medical examination. She was found to be conscious. Injuries were superficial. On 27th July, 1991, statement of PW-3 Kaushalya Devi, under Section 154 of the Code of Criminal Procedure, was recorded. Thereafter, case was formally registered against the respondent. Respondent allegedly got

---

Whether reporters of the local papers may be allowed to see the judgment?

recovered a plastic can from her room in which there was small quantity of kerosene.

3. Trial Court has acquitted the respondent holding that there is long delay of four days in lodging the FIR, for which there is no satisfactory explanation. Another reason given by the trial Court for disbelieving the prosecution version is that even though several persons were present on the spot, including PW-5 Kamla, another daughter-in-law of the respondent, and the two sons of the respondent, including husband of PW-3 Kaushalya Devi, no one testified that the respondent threw kerosene on PW-3 Kaushalya Devi and set her on fire.

4. We have heard the learned Additional Advocate General and gone through the record.

5. It is stated by the learned Additional Advocate General that there was satisfactory explanation for the delay in registering the case, inasmuch as PW-3 Kaushalya Devi was not fit to make statement, when taken to the hospital and her statement was recorded only after she was declared fit, for the purpose, by the doctor. The submission is not substantiated by the evidence on record. Rather the evidence on record belies the submission. PW-3 Kaushalya Devi was taken to the hospital on 23rd July, 1991 itself, around 9 p.m., or say within half an hour of the alleged incident. Her medico legal examination was conducted at 9 p.m. and she was found to be fully conscious and well oriented to space and time, per mention in medico legal report Ex. PW-3/C. Now, if the victim was fully conscious and well oriented to the time and space, it cannot be said that she was not fit to make a statement. Also, we find no evidence on record suggesting that the victim was not fit to make statement from 23rd to 27th July,

1991. The allegation that kerosene was thrown on the victim is negatived by the report of the Chemical Examiner, Ex. PW-12/A, per which there were no traces of kerosene on the clothes of the victim.

6. In view of the above stated position, we see no reason to interfere with the judgment of the trial Court. Appeal is, therefore, dismissed.

(Surjit Singh), J

December 6, 2007(sd) **(Surinder Singh), J**